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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21

RYDER INTEGRATED LOGISTICS, INC.

Employer,

and

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS. LOCAL 166,

Petitioner.

CASE NO. 21-RC-145241

**PETITIONER INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS,  
LOCAL 166'S ANSWERING BRIEF IN  
OPPOSITION TO EMPLOYER'S  
EXCEPTIONS TO THE REPORT ON  
OBJECTIONS AND ORDER  
DIRECTING HEARING AND NOTICE  
OF HEARING**

**I. INTRODUCTION**

Pursuant to Sec. 102.69 of the Board's Rules and Regulations, Petitioner International Brotherhood of Teamsters, Local 166 ("Union") hereby submits its Answering Brief opposing the Exceptions filed by Employer, Ryder Integrated Logistics, Inc. ("Employer") to the Report on Objections and Order Directing Hearing and Notice of Hearing.

**II. STATEMENT OF RELEVANT FACTS**

The Union filed its representation petition on January 28, 2015. Pursuant to a Stipulated Election Agreement, an election was conducted on March 5, 2015. The Union won the election with 36 ballots cast for the Union, and 34 ballots cast against the Union. The Tally of Ballots reflects that

1 there were no void ballots and only one challenged ballot which was insufficient in number to affect  
2 the results of the election.

3 After the Employer filed objections to the conduct of the election, the Report on Objections  
4 and Order Directing Hearing and Notice of Hearing ("Report") was issued on April 3, 2015. The  
5 Report overruled Employer's Objection No. 3 which states:

6  
7 **OBJECTION NO. 3**

8 On the day of the election, a bargaining unit member was prevented from voting due to  
9 extraordinary circumstances beyond his control. Namely, the bargaining unit member's  
10 brother was murdered in a public shooting on March 4, 2015, the day before the election. The  
11 extreme shock and tragedy of the violent episode affecting an immediate family member, and  
12 the ensuing familial and investigatory obligations, prevented the bargaining unit member  
13 from attending the vote on March 5.

14  
15 On April 17, 2015, the Employer filed Exceptions to the Report on the erroneous basis that  
16 the Board did not properly apply the correct law and reasoning for overruling Objection No. 3.

17  
18 **III. ARGUMENT**

19 The Acting Regional Director properly overruled Objection No. 3 as the individual employee  
20 in question chose not to vote due to the employee's personal circumstances. In its Report, the  
21 Region properly relied upon the Board's rulings in *Sahuaro Petroleum & Asphalt Co.*, 306 NLRB  
22 586 (1992) and *Versail Mfg.*, 212 NLRB 592 (1974) in which the Board held that an election would  
23 not be set aside where an individual voter is prevented from voting for personal reasons or  
24 circumstances outside the control of the parties. Here, there is no dispute that the parties' conduct  
25 did not prevent the employee from voting. Due to the tragic death of the employee's brother, the  
26 employee chose not to vote and decided to attend to family matters. Certainly, that is the  
27 employee's prerogative. However, the employee was not prevented from voting by the parties, the  
28 Board Agent, or any other circumstance warranting setting aside the election. If the employee had

1 wished to vote during the polling periods, he could have done so.

2       The Employer erroneously asserts that the “extraordinary circumstances” of the voter  
3 warrants sustaining its objection. In support of its contention, the Employer argues that the proper  
4 legal standard is set forth in *V.I.P. Limousine*, 274 NLRB 641 (1985) and *In re Baker Victory*  
5 *Services, Inc.*, 331 NLRB 1068 (2000). However, the legal standard set forth in *V.I.P. Limousine*  
6 and *In re Baker Victory Services, Inc.* applies to severe weather conditions affecting the election  
7 process, and not the circumstances of individual voters. In *V.I.P. Limousine*, the Board held that a  
8 severe snowstorm warranted setting aside an election. *Id.* at 642. Importantly, the Board  
9 distinguished *Versail* with the facts in *V.I.P. Limousine*, explaining: “Here, the issue is not the  
10 disenfranchisement of a single employee, but whether an unusually severe snowstorm wherein a  
11 considerable number of employees did not vote is so disruptive of the entire election process that a  
12 new election must be conducted.” Therefore, the Board reaffirmed that the legal analysis and  
13 standard set forth in *Versail* applies to issues concerning the disenfranchisement of a single  
14 employee, as is the case here. Indeed, there is no allegation that the employees were prevented from  
15 voting due to a severe snowstorm or weather conditions.

16       The Employer’s contention that the Report did not address that the employee’s vote was  
17 potentially outcome determinative again misconstrues the law. Citing *Sahuaro Petroleum*, 306  
18 NLRB at 587, the Employer misleadingly contends that the Board held that an intervening event did  
19 not prevent a ‘determinative’ number of voters from voting. However, that citation addresses a  
20 single employee, Garrison, who was prevented from voting due to circumstances attributable to the  
21 acts of his Employer. *Id.* at 587-88. Because the Board ruled the other two employees were not  
22 prevented by the Employer from voting in the election, Garrison’s vote was not outcome  
23 determinative. The Employer’s reliance on *Jobbers’ Meat Packing Co.*, 252 NLRB 41 (1980) is also  
24 distinguishable and misplaced as the issue before the Board was whether a Board Agent’s late  
25 opening of the polls affected the outcome of the election. Both the aforementioned legal citations by  
26 the Employer involve employees’ inability to vote due to acts attributable to a party or a Board  
27 agent, and not due to personal circumstances. The Employer attempts to conflate the law in order to  
28 bolster its meritless contentions.

1 **IV. CONCLUSION**

2 Based on the foregoing, the Union respectfully requests that the Board affirm the  
3 recommendation in the Report on Objections to overrule Employer's Objection No. 3.

4 Date: April ~~1~~<sup>7</sup>, 2015

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6  
7 By: 

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CERTIFICATE OF SERVICE

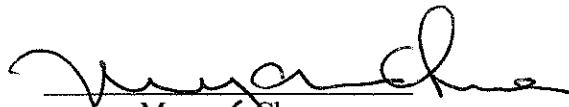
I hereby certify that on April 24 2015, I e-filed the foregoing **PETITIONER INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 166'S ANSWERING BRIEF IN OPPOSITION TO EMPLOYER'S EXCEPTIONS TO THE REPORT ON OBJECTIONS AND ORDER DIRECTING HEARING AND NOTICE OF HEARING** using the Board's e-filing system, and immediately thereafter served it by electronic mail upon the following:

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